

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

DEF
C/M

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TRUSTEES OF THE LOCAL 813 I.B.T.
INSURANCE TRUST FUND, THE LOCAL 813
I.B.T. PENSION TRUST FUND and THE
LOCAL 813 AND LOCAL 1034 SEVERANCE
TRUST FUND,

Plaintiffs,

-against-

CHINATOWN CARTING CORP.,

Defendant.
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MEMORANDUM AND ORDER

Case No. 06-CV-3386 (FB) (RML)

Appearances:

For the Plaintiffs:

ARTHUR A. HIRSCHLER, ESQ.
Finkel Goldstein Berzow
Rosenbloom & Nash, LLP
26 Broadway, Suite 711
New York, NY 10004

BLOCK, Senior District Judge:

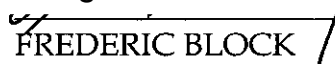
On June 29, 2007, Magistrate Judge Robert M. Levy issued a Report and Recommendation ("R & R") recommending that default judgment be entered against the defendant and that plaintiffs be awarded \$123,152.75 in unpaid fringe benefit contributions and interest, \$24,362.55 in liquidated damages and \$350.00 in costs, for a total judgment of \$147,865.30. The R & R states that "[a]ny objections this [R & R] must be filed with the Clerk of the Court . . . within ten (10) business days," and that "[f]ailure to file objections within the specified time waives the right to appeal the district court's order." R & R at 6. Plaintiff served a copy of the R & R on the defendant and its principals by mail on July 18, 2007, *see* Docket Entry No. 14 (Affidavit of Service), making objections due by August 6, 2007. *See* Fed. R. Civ. P. 6(a), 6(e). To date, no objections have been filed.

Where, as here, clear notice has been given of the consequences of failure to object, and there are no objections, the Court may adopt the R & R without *de novo* review. *See Thomas v. Arn*, 474 U.S. 140, 149-50 (1985); *Mario v. P & C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002) (“Where parties receive clear notice of the consequences, failure timely to object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.”). The Court will excuse the failure to object and conduct *de novo* review if it appears that the magistrate judge may have committed plain error. *See Spence v. Superintendent, Great Meadow Corr. Facility*, 219 F.3d 162, 174 (2d Cir. 2000).

As no error appears on the face of the Magistrate Judge Levy’s R & R, the Court adopts it without *de novo* review. The Clerk is directed to enter judgment to the extent permitted by the R & R.

SO ORDERED.

Brooklyn, New York
August 22, 2007

/signed/

FREDERIC BLOCK /
Senior United States District Judge